



## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP22-466-000]

### **WBI Energy Transmission, Inc.; Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Wahpeton Expansion Project; Request for Comments on Environmental Issues, and Schedule for Environmental Review**

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the Wahpeton Expansion Project (Project) involving construction and operation of facilities by WBI Energy Transmission, Inc. (WBI Energy) in Cass and Richland Counties, North Dakota. The Commission will use this EIS in its decision-making process to determine whether the Project is in the public convenience and necessity. The schedule for preparation of the EIS is discussed in the Schedule for Environmental Review section of this notice.

As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as “scoping.” By notice issued on January 4, 2022, in Docket No. PF21-4-000, the Commission opened a scoping period during WBI Energy’s planning process for the Project and prior to filing a formal application with the Commission, a process referred to as “pre-filing.” WBI Energy has now filed an application with the

Commission, and staff intends to prepare an EIS that will address the concerns raised during the pre-filing scoping process and comments received in response to this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document, including comments on potential alternatives and impacts, and any relevant information, studies, or analyses of any kind concerning impacts affecting the quality of the human environment. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 pm Eastern Time on **July 22, 2022**. Comments may be submitted in written or oral form. Further details on how to submit comments are provided in the Public Participation section of this notice.

As mentioned above, during the pre-filing process, the Commission opened a scoping period which expired on February 3, 2022; however, Commission staff continued to accept comments during the entire pre-filing process. Staff also held two virtual scoping sessions to take oral scoping comments. Those sessions were held on January 25 and 27, 2022. All substantive written and oral comments provided during pre-filing will be addressed in the EIS. Therefore, if you submitted comments on this Project to the Commission **during the pre-filing process** in Docket No. PF21-4-000 you **do not need** to file those comments again.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the Project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement

agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not grant, exercise, or oversee the exercise of eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

WBI Energy provided landowners with a fact sheet prepared by the FERC entitled “An Interstate Natural Gas Facility On My Land? What Do I Need To Know?” which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission’s proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website ([www.ferc.gov](http://www.ferc.gov)) under the Natural Gas Questions or Landowner Topics link.

### **Public Participation**

There are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208-3676 or [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov). Please carefully follow these instructions so that your comments are properly recorded.

- 1) You can file your comments electronically using the [eComment](#) feature, which is located on the Commission’s website ([www.ferc.gov](http://www.ferc.gov)) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;
- 2) You can file your comments electronically by using the [eFiling](#) feature, which is located on the Commission’s website ([www.ferc.gov](http://www.ferc.gov)) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling

users must first create an account by clicking on “[eRegister](#).” You will be asked to select the type of filing you are making; a comment on a particular project is considered a “Comment on a Filing”; or

- 3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP22-466-000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Additionally, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

**Summary of the Proposed Project, the Project Purpose and Need, and Expected Impacts**

WBI Energy proposes to construct and operate about 60.5 miles of 12-inch-diameter natural gas pipeline from WBI Energy's existing Mapleton Compressor Station near Mapleton, North Dakota to a new meter station near Wahpeton, North Dakota. The Wahpeton Expansion Project would provide about 20.6 million standard cubic feet of natural gas per day to southeastern North Dakota. According to WBI Energy, its Project would provide additional natural gas supply to Wahpeton, North Dakota and new natural gas service to Kindred, North Dakota, as requested by Montana-Dakota Utilities Co. (MDU).

The Wahpeton Expansion Project would consist of the following facilities in addition to the pipeline, all in North Dakota:

- modifications (installation of additional equipment and facilities, but no additional compression) to WBI Energy's existing Mapleton Compressor Station in Cass County to facilitate a tie-in to WBI's existing pipeline system.
- two delivery stations (MDU-Kindred Border Station and MDU-Wahpeton Border Station) in Cass and Richland Counties;
- seven block valve settings (Valve Site 1 would be located within the existing Mapleton Compressor Station and Valve Sites 3 and 7 would be collocated within the two delivery stations);
- four pig launcher/receiver settings<sup>1</sup> collocated with Valve Sites 1, 2, 5, and 7; and
- possible farm taps (unspecified number and locations at this time).

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<sup>1</sup> A "pig" is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

The general location of the Project facilities is shown in appendix 1.<sup>2</sup>

Construction of the proposed facilities would disturb at least 791.5 acres of land for the pipeline, aboveground facilities, and associated workspaces, of which approximately 728 acres are agricultural lands (crops, pasture, hayfields). Following construction, WBI Energy would maintain at least 372.5 acres for permanent operation of the Project's facilities; the remaining acreage would be restored and revert to former uses. Approximately 346 acres of permanent operational footprint would be within agricultural lands, which would be allowed to revert to agricultural uses. About 51 percent of the proposed pipeline route parallels existing electric transmission line, railroad, and road rights-of-way.

Based on an initial review of WBI Energy's and public comments received during the pre-filing process, Commission staff have identified several expected impacts that deserve attention in the EIS. The Project would impact 20 waterbodies, crossing 18 using a guided bore which would largely avoid impacts on the waterbodies except for potential temporary equipment bridge crossings. Two ephemeral waterbodies (roadside ditches) would be crossed using open-cut methods. Five additional ephemeral waterbodies (roadside ditches) would be crossed by access roads.

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<sup>2</sup> The appendices referenced in this notice will not appear in the Federal Register. Copies of the appendices were sent to all those receiving this notice in the mail and are available at [www.ferc.gov](http://www.ferc.gov) using the link called "eLibrary." For instructions on connecting to eLibrary, refer to the last page of this notice. At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll free, (886) 208-3676 or TTY (202) 502-8659.

Of the 8.5 acres of wetland which could be impacted by the Project, approximately 6.3 acres, including 0.4 acre of forested wetlands, would be impacted during the open-cut construction method for installation of the pipeline. The remainder of wetland impacts would result from access roads, aboveground facilities, and pipe yards. In total, approximately 0.10 acre of permanent wetland impact is anticipated, of which most would result from a conversion in type of wetland (from forested to emergent); less than 0.01 acre would consist of permanent fill of a roadside ditch for a permanent access road.

Other potential impacts associated with the Project would include:

- noise resulting from 24-hour construction activities;
- construction through areas with drain tiles;
- disturbance of wildlife species and habitats (although most areas proposed for disturbance consist of agricultural land);
- disturbance of soils and subsequent restoration of farmland;
- air emissions during construction; and
- environmental justice.

### **The NEPA Process and the EIS**

The EIS issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed Project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;

- socioeconomics and environmental justice;
- land use;
- cumulative impacts;
- air quality and noise; and
- reliability and safety.

Commission staff will also make recommendations on how to lessen or avoid impacts on the various resource areas. Your comments will help Commission staff focus its analysis on the issues that may have a significant effect on the human environment.

The EIS will present Commission staff's independent analysis of the issues. Staff will prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any draft and final EIS will be available in electronic format in the public record through library<sup>3</sup> and the Commission's natural gas environmental documents webpage (<https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents>). If eSubscribed, you will receive instant email notification when the environmental document is issued.

### **Alternatives Under Consideration**

The EIS will evaluate reasonable alternatives that are technically and economically feasible and meet the purpose and need for the proposed action.<sup>4</sup> Alternatives currently under consideration include:

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<sup>3</sup> For instructions on connecting to eLibrary, refer to the last page of this notice.

<sup>4</sup> 40 CFR 1508.1(z).



- the no-action alternative, meaning the Project is not implemented;
- four system alternatives;
- possible route alternatives and route variations;
- possible aboveground facility alternatives for delivery stations; and
- construction method alternatives.

With this notice, the Commission requests specific comments regarding any additional potential alternatives to the proposed action or segments of the proposed action. Please focus your comments on reasonable alternatives (including alternative facility sites and pipeline routes) that meet the Project objectives, are technically and economically feasible, and avoid or lessen environmental impact.

### **Consultation Under Section 106 of the National Historic Preservation Act**

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission initiated section 106 consultation for the Project in the notice issued on January 4, 2022, with the North Dakota State Historic Preservation Office, and other government agencies, interested Indian tribes, and the public to solicit their views and concerns regarding the Project's potential effects on historic properties.<sup>5</sup> This notice is a continuation of section 106 consultation for the Project. The Project EIS will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

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<sup>5</sup> The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

## **Schedule for Environmental Review**

On June 10, 2022, the Commission issued its Notice of Application for the Project. Among other things, that notice alerted other agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on the request for a federal authorization within 90 days of the date of issuance of the Commission staff's final EIS for the Project. This notice identifies the Commission staff's planned schedule for completion of the final EIS for the Project, which is based on an issuance of the draft EIS in November 2022.

Issuance of Notice of Availability of the final EIS

**April 7, 2023**

90-day Federal Authorization Decision Deadline<sup>6</sup>

**July 6, 2023**

If a schedule change becomes necessary for the final EIS, an additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

## **Permits and Authorizations**

The table below lists the anticipated permits and authorizations for the Project required under federal law. This list may not be all-inclusive and does not preclude any permit or authorization if it is not listed here. Agencies with jurisdiction by law and/or special expertise may formally cooperate in the preparation of the Commission's EIS and may adopt the EIS to satisfy its NEPA responsibilities related to this Project. Agencies

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<sup>6</sup> The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

<b>Agency</b>	<b>Permit</b>
FERC	Certificate of Public Convenience and Necessity under Section 7c of the Natural Gas Act
U.S. Army Corps of Engineers	Section 404 of the Clean Water Act
U.S. Fish and Wildlife Service	Section 7 of the Endangered Species Act
North Dakota Department of Environmental Quality	Water Quality Certificate under Section 401 of the Clean Water Act
State Historical Society of North Dakota	Section 106 of the National Historic Preservation Act

### **Environmental Mailing List**

This notice is being sent to the Commission's current environmental mailing list for the Project which includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the Project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to

ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed Project. State and local government representatives should notify their constituents of this proposed Project and encourage them to comment on their areas of concern.

**If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:**

- 1) Send an email to [GasProjectAddressChange@ferc.gov](mailto:GasProjectAddressChange@ferc.gov) stating your request. You must include the docket number CP22-466-000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This e-mail address is unable to accept comments.**

**OR**

- 2) Return the attached “Mailing List Update Form” (appendix 2).**

### **Additional Information**

Additional information about the Project is available from the Commission’s Office of External Affairs, at **(866) 208-FERC**, or on the FERC website at [www.ferc.gov](http://www.ferc.gov) using the eLibrary link. Click on the eLibrary link, click on “General Search” and enter the docket number in the “Docket Number” field, excluding the last three digits (i.e., CP22-466). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov) or (866) 208-3676, or for

TTY, contact (202) 502-8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at <https://www.ferc.gov/news-events/events> along with other related information.

Dated: June 22, 2022.

**Kimberly D. Bose,**

*Secretary.*

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